SUPREME COURT OF THE UNITED STATES.

No. 96.

CHEESEMAN ET AL. vs. WATSON.

Return to certiorari.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania, greeting:

Whereas, in a certain suit in the said circuit court, between John Doe, lessee of Jacob Cheesman et al., plaintiff, and Thomas Watson, defendant, which suit was removed to the Supreme Court of the United States by virtue of a writ of error, agreeably to the act of Congress in such case made and provided, a diminution of the record and proceedings of said cause has been suggested, to wit: "That the deed from Thomas Penn and Richard Penn to James Parrock, and also the will of James Parrock, mentioned in the bill of exceptions as parts thereof, as signed and sealed by the judges, are omitted in the transcript."

You therefore are hereby commanded that searching the records and proceedings in said cause, you forthwith certify what omissions you shall find to the said Supreme Court of the United States, so that you have the same, together with this writ, before the said Supreme Court forthwith.

Witness the honorable Roger B. Taney, chief justice of said Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-six.

WM. THOS. CARROLL,
Clerk of the Supreme Court U. States.

The return to the within writ appears by the schedules annexed.

GEORGE PLITT, *Clerk C. C.*

Be it remembered, that I, James Parrock, of the city of Philadelphia, in the province of Pennsylvania, shipwright, being in perfect health, and of a sound, well, and disposing mind, memory, and understanding, thanks be therefore humbly offered to God for the same, and for all others his mercies which he graciously bestows upon me; having considered the uncertainty of life and certainty of death, and knowing that it is appointed for all men once to die, have thought fit to make my last will and testament in manner and form following, viz., hereby revoking all former wills by me heretofore made, and acknowledge this, and no other, to be my last will and testament.

Principally, and of all things, I recommend my soul into the hands of God, who gave it; and when it may please God, in his divine providence, to take my soul from this my body, to rest in those mansions which he hath prepared for those who put their whole trust in him, then I commit my body to the earth, to be buried at the directions of my executors hereafter mentioned. And it is my will that all of my just debts, funeral expenses, legacies, and quil pieces, be duly paid and discharged by my said executors. And I do give and bequeath unto my dear wife, Hannah, all that my messuage or tenement, wash-house, kitchen, and lot of ground, situate in Second and Sassafras streets, in the said city, and wherein I now live, together with the appurtenances; and all that my rent charge, or sum of seven pounds, lawful money of Pennsylvania, yearly issuing out of a certain lot in the said Sassafras street, which lot I granted unto Nicholas Cassell in fee; and all that rent charge, or sum of seven pounds five shillings, yearly issuing out of a certain lot in said Second street, which lot I granted unto John Baker in fee; and all that rent charge, or sum of four pounds one shilling, yearly issuing out of a certain other lot in the said Sassafras street, which lot I granted unto Jacob Souder in fee; and all that yearly rent charge, or sum of three pounds sixteen shillings and sixpence, yearly issuing out of a certain other lot in said Sassafras street, which lot I granted unto Anna Maria Zuber in fee; and all that rent charge, or sum of three pounds sixteen shillings and sixpence, yearly issuing out of a certain other lot in said Sassafras street, which said lot I granted unto Lawrence Kuntz in fee; and all that rent charge, or sum of three pounds and six shillings, yearly issuing out of a certain lot in Vine street, which I granted unto Preserve Brown in fee; and all that rent charge, or sum of three pounds and two shillings, yearly issuing out of a certain other lot in the said Vine street, which lot I granted unto John Marle in fee; and all that rent charge, or sum of seven pounds, yearly issuing out of a certain other lot in said Second street, which I granted unto Benjamin Caster in fee; and all that rent charge, or sum of four pounds, yearly issuing out of a certain other lot in said Second street, which I granted unto John Gabert in fee; and all that rent charge, or sum of six pounds, yearly issuing out of a certain other lot in said Second street, which lot I granted unto John Caster in fee; and all that rent charge, or sum of three pounds and five shillings, yearly issuing out of a certain other lot in Front street, in the said city, which said lot I granted unto William Parker in fee: To hold the said messuage or tenement, wash-house, kitchen, and lot of ground, with the appurtenances, and all and singular the above mentioned rent charges, unto my said wife, Hannah, for and during the term of her natural life. And from and immediately after her decease, I give and bequeath unto my grandson, John Parrock, the several rent charges hereinafter mentioned, part of the above mentioned rent charges, viz: the said yearly rent charge, or sum of seven pounds, payable by the said Nicholas Casset, his heirs and assigns; the said yearly rent charge, or sum of seven pounds five shillings, payable by the said John Baker, his heirs and assigns; the

said yearly rent charge, or sum of four pounds and one shilling, payable by the said Jacob Souder, his heirs and assigns; the said yearly rent charge, or sum of three pounds sixteen shillings and sixpence, payable by the said Anna Maria Zuber, her heirs and assigns; and the said yearly rent charge, or sum of three pounds sixteen shillings and sixpence, payable by the said Lawrence Kuntz, his heirs and assigns: To hold to him, my said grandson, John Parrock, his heirs and assigns, forever. And all the rest and remainder of the above mentioned yearly rent charge, together with my abovesaid messuage or tenement, washhouse, kitchen, and lot of ground thereunto belonging, situate as above said, together with the appurtenances, I give, devise, and bequeath unto my granddaughter, Sarah Parrock, to hold to my said granddaughter, Sarah Parrock, her heirs and assigns, forever. And I do give and bequeath unto my said wife, Hannah, the use of my silver teapot, a pair of silver tea-tongs, a silver cream-pot, and six silver teaspoons, for and during the term of her natural life. And after her decease, I give and bequeath the said teapot, tea-tongs, cream-pot and teaspoons, unto my said granddaughter, Sarah Parrock, who I also give my thickest Bible, my small silver tankard, a silver porringer, a silver pepperbox, and two silver large spoons, and my chest of drawers, which was called her grandmother's. And I do give unto my said wife, Hannah, my largest Bible, my middlemost silver tankard, two silver porringers, four large silver spoons, and my best chest of drawers. And I do give unto my said grandson, John Parrock, my thinnest Bible, my large silver tankard, a silver porringer, a silver cup, two large silver spoons, and my walnut cabinet. And I do give and bequeath unto the said John Parrock all that my bank and water lot, situate in the Northern Liberties of the said city, containing in breadth fifty foot, and in depth, into the river Delaware, two hundred and fifty foot, with the tenements thereon erected, bounded northward on Linn's lot, and southward on Joseph Fox's lot, together with the appurtenances; and all that my piece or tract of upland and meadow, situate in the Northern Liberties aforesaid, bounded northward on a road leading to Richmond, westward upon William Callender's land, southward upon Delaware river, and eastward upon Michael Hillega's land, containing about fifty-six acres of land, together with the appurtenances; and all that yearly rent charge, or sum of five pounds eleven shillings, issuing out of a certain lot in said Second street, and which I granted unto William Johnson in fee; and all that yearly rent charge, or sum of two pounds fourteen shillings, issuing out of a certain lot in said Sassafras street, which said lot I granted unto John Price in fee; and all that my bank and water lot, situate on the south side of said Sassafras street, and east side of said Front street, in the said city, containing, in breadth, seventy-one feet, and in length or depth, into the said river Delaware, two hundred and fifty foot, together with the appurtenances: To hold the said several described bank and water lots, and piece or tract of land, and said yearly rent charges, together with their or every of their appurtenances, unto my said grandson, John Parrock, his heirs and assigns, forever. And I do give and bequeath unto my said granddaughter, Sarah Par-

rock, all that my messuage or tenement, and lot of ground thereunto belonging, situate on the east side of said Second street, bounded northward upon Edmund Wooley's messuage and lot, eastward upon an alley leading into said Sassafras street, southward on the messuage and lot of ground unto her hereinbefore devised, and westward upon said Second street, now in the occupation of Joseph Cauffman, together with the appurtenances; and all that lot or piece of ground, situate in said Sassafras street, containing in breadth, north and south, twenty-two foot, and in length or depth fifty-one foot, (east and west,) bounded westward upon the said alley, which divides this lot from the said two messuages and lot of ground, northward upon Michael Hillegas' lot, eastward upon Elizabeth Dumer's lot, and southward upon the said Sassafras street, together with the appurtenances; and all that my bank and water lot, situate in the said city, containing in breadth forty foot, and in length, or depth, two hundred and fifty foot into the river Delaware, bounded by Sassafras street, by Front street, by Leeches' lot, and by the said river, together with the appurtenances; and all that yearly rent charge, or sum of seven pounds ten shillings, issuing out of a twenty foot lot, part of the said forty foot bank and water lot, which said twenty foot lot I granted unto Samuel Green in fee; and all that yearly rent charge, or sum of four pounds, issuing out of a lot in said Sassafras street, which lot I granted unto James Cassell in fee; and all that rent charge, or sum of two pounds, yearly issuing out of a lot in said Second street, which lot I granted unto William Humphreys in fee: To hold the said messuage or tenement, the said two several described lots of ground, and the three several rent charges above mentioned, with the appurtenances, to my said granddaughter, Sarah Parrock, her heirs and assigns, forever. And I do give and bequeath unto my said granddaughter, Sarah Parrock, and unto my said grandson, John Parrock, all that my pasture, or piece of land, situate in the Northern Liberties aforesaid, bounded southward upon a certain land, westward by Joseph Oldman's land, northward by David Daesdiler's land, and eastward by York road, containing three acres, to be equally divided between them, part and share alike: To hold the one full equal and undivided westerly moiety, or half part thereof, unto my said grandson, John Parrock, his heirs and assigns, forever; and to hold the one full equal other easterly moiety, or half part, bounding upon the said York road, unto my said granddaughter, Sarah Parrock, her heirs and assigns, forever. And I do hereby empower and order my said executors, and the survivor of them, to sell and dispose (as soon as my said grandchildren shall come of age, all that my piece or lot of ground, situate on the south side of Vine street aforesaid, about seventy one feet from said Second street corner, and extending east sixteen foot and one half, to Preserve Brown's lot, south fifty-one foot to John Denton's lot, west by the said Denton's lot sixteen foot and an half, and north fifty-one foot, by John Marle's lot, together with the appurtenances, to any person or persons that will purchase the same, and for the best price they can reasonably get: To hold to such purchaser or purchasers, his and their heirs and assigns, forever. And to give good deeds, or other suffi-

cient conveyances for the same. And the moneys arising by reason of said sale shall be equally divided between my said two grandchildren, John and Sarah Parrock, share and part alike.

And I do give and bequeath unto Mary Parrock, the widow of my son, John Parrock, deceased, and mother of my said grandson, John Parrock, all that my messuage, or tenement, and lot of ground thereunto belonging, situate in the said Sassafras street, now in the occupation of Joseph Warner; and I do give and bequeath unto Lydia Cathcart all that my messuage or tenement, and lot of ground thereunto belonging, situate on the south side of said Sassafras street, now in the occupation of John Comoron, which lot of ground bounds upon the said messuage and lot so devised unto the said Mary Parrock, and both lots bound partly on Castello's and Edward Warner's lots. To hold the said messuage or tenement and lot of ground, so devised unto the said Mary Parrock, during the term of her natural life, if she shall so long continue my said son's widow. And to hold the said last mentioned messuage or tenement and lot of ground, unto the said Lydia Cathcart, and during the term of her natural life, if she shall so long continue a widow. And from and immediately after their, or either of their, (the said widow's) decease day or days of marriage, then I give and bequeath all and singular the said two messuages or tenements, and lots of ground thereunto respectively belonging, together with their, and every of their, appurtenances, unto my said

JAMES PARROCK, [SEAL.]

grandson, John Parrock; to hold to him, his heirs and assigns, forever. And I do give unto the said Mary Parrock the sum of twenty pounds, lawful money aforesaid; and I do give unto Lydia Cathcart the sum of ten pounds like money; and I do give unto the children of John Smallwood, deceased, all my wearing apparel, to be equally divided between them, part and share alike; and I do give and bequeath unto the monthly meeting of the people called Quakers, at Philadelphia aforesaid, the sum of ten pounds, like money, to be laid out for such use as the said meeting shall seem meet; and I do give and bequeath unto Joseph Fowdham the sum of ten pounds, like money; and I do give and bequeath unto Richard Fordham the sum of ten pounds, like money; and I do give unto James Ashton, (son of Isaac Ashton, deceased, and Sarah, his wife,) the sum of five pounds, like money; and I do give unto Susannah, Hannah, Mary, Sarah, Rebecca, and William, (the children of William and Mary Paschal,) the sum of five pounds a piece; and I do give unto the said Sarah Paschal, (the mother,) the sum of twenty pounds; and I do give unto Sarah Smallwood, the widow of the said John Smallwood, deceased, the sum of six pounds, like money; and I do give unto John, Manly, Richard, Joseph, Moses, James, Mary, and Sarah, (the children of the said John Smallwood, deceased, and the said Sarah, his late wife,) the sum of three pounds a piece, like money. N. B., as said James Smallwood is deprived of his reason, I will that the legacy unto him so devised shall be paid to

his mother, the said Sarah Smallwood, who shall lay out that sum of three pounds for his use, as she shall think meet. And I do give unto Sarah James and Hannah James the sum of five pounds, like money, to be equally divided between them, part and share alike. And it is my will that the several and respective legacies, herein before devised unto my said grandson, John Parrock, and unto my said granddaughter, Sarah Parrock, shall be paid and delivered to them as they shall respectively come of age. And, as for and concerning all the rest and residue of my personal estate, I give and bequeath the same unto my said wife, Hannah, my said grandson, John Parrock, and my said granddaughter, Sarah Parrock, to be equally divided between them, part and share alike. Provided always, nevertheless, and the several legacies herein before devised unto my said grandson, John Parrock, and my said granddaughter, Sarah Parrock, are on this special condition, that if both my said grandchildren shall happen to die under age, and without any lawful issue, then it is my will that the one-fourth part of all and singular the real and personal estate unto them herein before devised, shall go to the monthly meeting of the people called Quakers, at Philadelphia aforesaid, to the only proper use and behoof of the said monthly meeting, forever. And the other three parts of the said real and personal estate shall be equally divided between the said Sarah Smallwood, the widow of John Smallwood aforesaid, and their children, the children of Thomas Smallwood, the children of Benjamin Richards, the children of William Paschall, deceased, the said Sarah Paschall, said William Paschall, widow Lydia Cathcart and her children, Joseph Fordham and his children, Richard Fordham and his children, the children of Isaac Ashton, deceased, Sarah Thomas and her children, Mary Lee and her children, Lydia Davis and her children, John Spencer and his children, and to the survivor of them, and to the heirs and assigns of such survivors or survivor, (as tenants in common, and not as joint tenants,) forever, anything herebefore contained to the contrary thereof in anywise notwithstanding. And I do hereby nominate and appoint William Callender, my dear friend, of the said city, merchant, and my dear friend, Jeremiah Elpeth, of the said city, blacksmith, to be the executors of this my last will and testament.

In witness whereof, I, the said James Parrock, have hereunto set my hand and seal, the twenty-fourth day of May, annoque domini, one thousand seven hundred and fifty-four.

JAMES PARROCK. [SEAL.]

Signed, sealed, published, and declared by James Parrock, the testator in the foregoing named, for and as his last will and testament, in the presence of us, who, at his request and in his presence, have set our hands as witnesses thereunto. The words "and the monies arising by reason of said sale shall be equally divided between my said two grandchildren, John and Sarah Parrock, share and part alike," in the paragraph concerning the sale of a lot in Vine street, being first interlined,

(as also the words "under age and," being also first interlined,) in the proviso.

BENJ. LEIGH,
NATHANIEL BROWNE,
JOSIAH WARNER,
PETER MILLER.

January 24th, 1755, executors affirmed.

Philadelphia, 24th January, 1755; then personally appeared Joseph Warner, Nathaniel Brown, and Peter Miller, three of the witnesses to the foregoing will, on their solemn affirmation, according to law, respectively, did declare and affirm, they saw and heard James Parrock, the testator therein named, sign, seal, publish, and declare the same will for and as his last will and testament; and that, at the doing thereof, he was of sound mind, memory, and understanding, to the best of their knowledge; and that they, together with Benjamin Leigh, now absent, did subscribe their names, as witnesses thereto, in the presence, and at the request, of the said testator. Corum.

(Signed,) WM. PLUMSTED,
Register general.

PHILADELPHIA CITY & COUNTY, *ss:*

I certify the foregoing to be a true copy of the original last will and testament of James Parrock, deceased, as well as the probate thereof, as filed and of record in the register's office for the city and county of Philadelphia.

Given under my hand and seal of office, this 8th day of January, A. D. 1830.

(Signed,) JNO. GEYER, *Register.*

Release to James Parrock for the Proprietaries' thirds of a bank and water lot between Mulberry street and Sassafras street.

This indenture, made the fifth day of September, in the twenty-third year of the reign of our sovereign lord George the Second, by the grace of God of Great Britain, France, and Ireland, king, &c., annoq domini one thousand seven hundred and forty-nine, between the honorable Thomas Penn and Richard Penn, esqs., true and absolute proprietaries and governors-in-chief of the province of Pennsylvania and counties of Newcastle, Kent, and Sussex, on Delaware, of the one part, and James Parrock, of the city of Philadelphia, shipwright, of the other part.

Whereas William Penn, esq., late proprietary and governor-in-chief of the province aforesaid, by his commissioners of property and letters patent under the seal of the said province, dated the tenth day of July, anno domini 1691, did grant and confirm unto John Longhurst, then of the said city, carpenter, in fee, a certain lot of ground situate within the said city, on or before the bank of Delaware river, containing in breadth fifty-one feet, and in length two hundred and fifty feet, therein described to be bounded northward with Sassafras street, eastward with Delaware river at the extent of two hundred and fifty *foot*, southward

with Elizabeth Palmer's lot, and westward with Delaware Front street, granted by warrant of the fifth day of July, in the year 1690; to hold and enjoy the said lot to the only use and behoof of the said John Longhurst, his heirs and assigns, forever; yielding and paying therefor, yearly, during the space of fifty-one years, from the said fifth day of July, 1690, unto the said William Penn, his heirs and successors, five English silver shillings or value thereof in coin, current of the said province, and at the expiration of the same term, the yearly value of the said lot and buildings and improvements thereon to be reasonably appraised by two men, mutually to be chosen as therein expressed, one-third of which valuation and appraisement the said John Longhurst, his heirs and assigns, should thereafter pay unto the said William Penn, his heirs and successors, forever; to be holden forever of the said William Penn and his proprietors of the said province as of their Manor of Springetsbury, and free and common soccage, and under certain other limitations, restrictions, regulations, and provisos in the said original letters patent reserved and expressed, as in and by the same patent more fully appears, the right of and in which said fifty-one feet lot is now by virtue of several mesne grants and conveyances since duly made or executed, vested in the said James Parrock.

And whereas, by virtue of a warrant from the then commissioners of property of the said late proprietaries, dated the twentieth day of January, in the year 1693, there was laid out the same day to George, John, Thomas, and William Palmer, sons of George Palmer, (then deceased,) in right of, and as appurtenant to their said father's original purchase from the said late proprietor of five thousand acres, a certain lot of land, situate on the bank of Delaware river aforesaid, containing in breadth one hundred and two feet, and in length two hundred and fifty feet, therein described to be bounded westward with Delaware Front street, and northward with the said hereinbefore described lot, late of John Longhurst, eastward with Delaware river, at the said extent of two hundred and fifty feet, and southward with a lot then of John Fuller.

And whereas, the said sons of the said George Palmer, then deceased, with Ralph Jackson and Elizabeth his wife, who was the daughter of the said George Palmer, then deceased, having sold and conveyed to Benjamin Chambers, then of the said city, yeoman, the northermost part of their said lot, containing in breadth seventy-six feet and an half, and in length two hundred and fifty feet, he, the said late proprietor, by his then commissioners of property and letters patent, under the great seal of the said province, dated the eighth day of May, in the year 1704, did grant and confirm unto the said Benjamin Chambers, in fee, all that the said part of the said large lot, the same being therein described to be bounded as followeth, viz: being in breadth seventy-six feet and an half, and in length two hundred and fifty feet, bounded westward with the said Front street, northward with the said lot, late of John Longhurst, southward with the remainder of the said large lot, then unsold, and eastward with the river Delaware, at the said extent of two hundred and fifty feet from the said Front street; to hold the

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said seventy-six feet and an half lot unto the said Benjamin Chambers, his heirs and assigns, forever; under the yearly rent to the said late proprietor and his heirs, of seven English silver shillings and six pence, or value thereof in coin current of the said province, for the term of fifty-one years, to be computed from the date of the said recited warrant of the twenty-first of January, in the year 1693; and at the expiration of the said term the yearly value of the said seventy-six and an half feet lot, and the buildings and improvements thereon, to be reasonably appraised by two men, mutually to be chosen as therein expressed, one-third of which valuation and appraisement the said Benjamin Chambers, his heirs and assigns, should thereafter pay unto the said William Penn, his heirs and successors, forever; and under certain other limitations, restrictions, regulations, and provisos in the said last recited original letters patent reserved and expressed, as in and by the same, (recorded at Philadelphia, in patent book A, vol. 2, page 676,) more fully appears.

And whereas, the right of and in the north part or side of the said seventy-six and an half feet lot, for the breadth of twenty feet, and the said length of two hundred and fifty feet, is by virtue of several mesne grants, devises, and conveyances, since made and executed, now vested in the said James Parrock, and lying contiguous to his said hereinbefore described fifty-one feet lot, the said twenty feet lot, and fifty-one feet lot, have at the instance and request of the said James Parrock, and in virtue and pursuance of a warrant from the said proprietaries, under the seal of their land office, dated the third day of July last past, been resurveyed together as one lot, and found to be situate in the said city, between Mulberry street and Sassafras street, and to be bounded westward by Delaware Front street, northward by Sassafras street aforesaid, eastward by the river Delaware, at the extent of two hundred and fifty feet from Front street aforesaid, and southward by part of a lot of ground, formerly granted to Benjamin Chambers, containing in breadth north and south seventy-one feet, and in depth east and west two hundred and fifty feet, excepting and reserving within the bounds aforesaid, a street or cartway of the depth of thirty feet, running across the said last described lot of ground parallel to the said Front street, as in and by the said resurvey of the said seventy-one feet lot, remaining in the surveyor general's office, and from thence certified into the secretary's office, may appear. Now, at the instance and request of the said James Parrock, that the said proprietaries, parties hereto, would be pleased to release unto him the said third part of the yearly value of his said seventy-one feet lot, by the said recited original patents intended to be reserved and paid unto the said William Penn and his heirs, forever, and to grant and confirm to him in fee his said seventy-one feet lot, subject only to the annual sum or rent charge of ten pounds thirteen shillings sterling, as hereinafter covenanted and expressed.

This indenture witnesseth, that the said Thomas Penn and Richard Penn, favoring the request of the said James Parrock, and for his further encouragement to build upon and improve the said lot, and for and in

consideration of the annual sum or rent charge of ten pounds thirteen shillings sterling, which is mutually agreed between them, the said proprietaries and the said James Parrock, shall be charged upon and issuing out of the said lot forever, in lieu and full satisfaction of the said third of the yearly value thereof; and also in consideration of the sum of five shillings, lawful money of Pennsylvania, to the use of the said proprietaries, now in hand paid by the said James Parrock, (the receipt whereof is hereby acknowledged,) they, the said Thomas Penn and Richard Penn, have granted, remised, released, and altogether for them and each of them, their and each of their heirs, forever quit-claimed and confirmed, and by these presents do grant, remise, release, quit-claim, and confirm, unto the said James Parrock, his heirs, and assigns, all that, the one-third part of the yearly value of the said last above described seventy-one feet lot or piece of ground, with all buildings and improvements thereon being or erected, and all the estate, right, title, interest, claim, and demand whatsoever, which the said William Penn and his heirs, and which they, the said Thomas Penn and Richard Penn, or any of them, or any other person or persons whatsoever, claiming by, from, or under them, or any of them, ever had, now have, or hereafter may have or claim, of, in, or to, the same lot of ground and premises, with the appurtenances: To have and to hold the said last herein before described seventy-one *foot* lot or piece of ground and hereditaments, with the appurtenances, together with all and singular *yr.* buildings, ways, passages, waters, water-courses, liberties, easements, privileges, and advantages thereunto belonging, or in anywise appertaining, subject to the conditions, regulations, restrictions, and provisoes in the said original patent thereof comprised, the said reservation of one-third of the value as a rent forever only excepted, unto the said James Parrock, his heirs, and assigns, to the use and behoof of the said James Parrock, his heirs, and assigns, forever; to be holden of them, the said Thomas Penn and Richard Penn, their heirs, and successors, proprietaries of Pennsylvania, so as neither they, the said Thomas Penn and Richard Penn, or either of them, their or either of their heirs, executors, administrators, or assigns, or any other person or persons whatsoever in their name or names, right or rights, or in the right of the said William Penn, esq., shall or may at any time hereafter have, claim, challenge, or demand any estate, right, title, or interest, of, in, or to the said last described seventy-one *foot* lot or piece of ground, or of, in, or to the third part of the yearly value of the same ground and premises above mentioned, or to any part thereof; but of and from all estate, right, title, interest, or demand, of, in, or to the same lot of ground and premises, and every or any part thereof, shall forever hereafter be barred and excluded by these presents; saving and excepting, nevertheless, that the same lot of ground and premises shall stand and be forever subject to, and charged with, the said annual sum or rent charge of ten pounds thirteen shillings sterling, to be paid to the said Thomas Penn and Richard Penn, and their heirs forever, in manner hereinafter covenanted and expressed.

And this indenture further witnesseth, that the said James Parrock, for and in consideration of the said grant, release, and confirmation, in and by these presents hereinbefore made to him by the said proprietaries of the said last described seventy-one *foot* lot and premises, clear of the said third part of the yearly value thereof, so intended by the said original patent to be reserved as a yearly rent forever; and for the more effectual charging the said premises with the said annual sum or rent of ten pounds thirteen shillings sterling, in lieu of such third part of the yearly value, and for and in consideration of the sum of five shillings to him in hand paid by the said Thomas Penn and Richard Penn before the ensealing hereof, (the receipt whereof is hereby acknowledged,) he, the said James Parrock, hath given, granted, and confirmed, and by these presents doth give, grant, and confirm, unto the said Thomas Penn and Richard Penn, and their heirs, the annual sum or rent charge of ten pounds thirteen shillings sterling, or value thereof in coin current, according as the exchange shall then be, from time to time, between the said province and the city of London, to be issuing, payable, and going out of the said herein before granted and described seventy-one *foot* of ground, hereditaments, and premises, with the appurtenances, to be paid at or upon the first day of March in every year, from the first day of March last past, forever: To have, hold, and yearly to receive, perceive, and take the said annual sum or rent charge of ten pounds thirteen shillings sterling, or value thereof, in coin current, according to the exchange aforesaid, from time to time, unto them the said Thomas Penn and Richard Penn, and their heirs, to their proper use and behoof forever; and the said James Parrock doth hereby, for himself, his heirs, and assigns, covenant, promise, and grant, to and with the said Thomas Penn and Richard Penn, and their heirs, that if the said annual sum or rent charge of ten pounds thirteen shillings sterling, or value thereof, in coin current, as aforesaid, shall happen to be behind and unpaid, in part or in all, for the space of ninety days after any of the said days above limited for payment thereof, that then it shall and may be lawful for them, the said Thomas Penn and Richard Penn, and their heirs, and their receiver or receivers, from time to time, into and upon the same herein last before described lot of ground, hereditaments, and premises, and into the messuages and buildings thereon erected, or to be erected, or upon any part thereof, to enter and distrain for the said annual sum or rent charge of ten pounds thirteen shillings sterling, and the arrearages thereof, if any; and the distress and distresses then and there found and taken to impound and [be] impounded, to detain and keep at the proper risque of the said James Parrock, his heirs and assigns, for the space of five days; and if within that time payment and satisfaction of the said annual sum or rent charge of ten pounds thirteen shillings sterling, and all arrearages thereof, if any, be not made, then, or at any time thereafter, the same distress to expose and sell by public auction or vendue for the best price that can be reasonably gotten, leaving in the hands of the sheriff or officer who shall assist in making such distress the surplusage, if any be, after the said annual sum or rent charge and arrearages,